



CITY OF MORGAN HILL

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PLANNING COMMISSION MINUTES

REGULAR MEETING

APRIL 11, 2000

PRESENT: Lyle, McMahon, Mueller, Pinion, Ridner, Sullivan

ABSENT: Kennett

LATE: None

STAFF: Planning Manager (PM) Rowe, and Administrative Secretary Smith

REGULAR MEETING

Chairman Pinion called the regular meeting to order at 7:03 p.m.

DECLARATION - POSTING OF AGENDA

Administrative Secretary Smith certified that this meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

PUBLIC COMMENTS

Chairman Pinion opened the meeting to public comments.

There being none, the public comments were closed.

MINUTES:

MARCH 28, 2000

ON A MOTION BY COMMISSIONERS LYLE/MUELLER, THE MINUTES OF THE MARCH 28, 2000 MEETING WERE APPROVED BY A 5-0-1-1 VOTE, WITH SULLIVAN ABSTAINING AND KENNETT ABSENT, WITH THE FOLLOWING AMENDMENTS:

- 1) Page 2, paragraph 2, line 14 amend to read: "...8.8 acres versus the 8 **4.4** acres proposed...."
- 2) Pages 1, 9, and 10, correct vote to read: "...**VOTE OF 6-1 6-0, WITH SULLIVAN ABSENT**"
- 3) Page 9, paragraph 4, add sentence to item 3 to read: "**THE APPLICANT SHALL WORK WITH CALTRANS TO PROVIDE 15 FT. OF LANDSCAPING IN THE**

CALTRANS RIGHT-OF-WAY TO PROVIDE THE TOTAL 30 FT. LANDSCAPE BUFFER.”

- 4) Page 13, paragraph 2, line 5, amend to read: “.....schedule several ~~yearly~~ meetings a ~~year~~ together to discuss.....”

NEW BUSINESS:

Upon the request of the applicant, the Commission agreed to hear Item 4 first on the agenda.

**4) EOT-00-02/
UP-99-02: CALLE
ENRIQUE-
GUEVARA**

A request for an extension of time for the commencement of a conditional use permit to allow an infant center to operate at 15345 Calle Enrique. PM Rowe presented the Staff report, followed by Staff's recommendation to approve a one-year extension subject to the findings in Resolution No. 00-16. PM Rowe answered questions from the Commission with regard to the project.

Chairman Pinion opened the public hearing.

James Fruit, 500 Via Sorrento, local architect and nearby property owner to the project property, advised the Commission that whoever has been doing the work on the project has not been very kind to the neighbors and that a significant amount of the work that has been done is substandard. He was requested by Chairman Pinion to provide Staff with his list of issues, and PM Rowe indicated the issues could be dealt with during the building inspections. Mr. Fruit also pointed out that there has been a significant amount of work that has been done on the project without the benefit of building permits or inspections. He stated that his main requests for consideration by the Commission was that any extension of time should carry the conditions that the applicant do the work properly and that they repair some of the damages to fences of the four nearby property owners adjacent to the site.

Ed Rado, 496 Via Sorrento, stated that he was opposed to the project initially and that he is also opposed to the request for an extension of time. He presented slides of the project evidencing debris on the property and a wall that he stated was built illegally without permits. Mr. Rado further stated that work was being done on the project on the weekends, no permits had been obtained by the applicant, and that when the project was red-tagged, they were removed by the applicant. He also expressed disappointment with the City because he felt that they did not respond to his concerns in an expeditious manner when he first brought the problems with the project to their attention, and also because all the information regarding the problems they have been experiencing with this project was not provided to the Commission in the proposal for the request for extension of time. Mr. Rado said that he felt that the use permit for the applicant should be voided.

Carole Rado, 496 Via Sorrento, stated that they spent a lot of time last year coming before the Planning Commission presenting and explaining their concerns and opposition to the project. She said that they were resolved to the fact that the Planning Commission had approved the use permit request and that there were insurances built into the permit to protect their property values and their concerns with the business. Mrs. Rado further

stated that during the times that they have come to discuss their concerns, they have been very surprised, disappointed and dismayed that there were claims made by the applicant about what he would do to address the neighbors' concerns, and then to have those concerns disregarded. She continued by saying that there were 21 violations before the property was finally red-tagged and construction was stopped, and that she was disappointed that they still have the "eyesore" in her neighborhood a year later.

Mike Guevara, project applicant, addressed the Commission upon the request of Chairman Pinion. He stated that the concrete barrier was built to keep the dirt off the adjacent property owners' fences. He then responded to questions from the Planning Commission. Mr. Guevara indicated that he thought he could probably complete the project by the end of July or August in order to get the business opened for the school year.

Ed Rado spoke again, and stated that the comment by the applicant where he indicated that he built the concrete barrier to keep the dirt off the adjacent property owners' fences did not make sense because the entire back parking lot had been regraded, which made it higher, and that in the original agreement there was not going to be a playground on the project.

Chairman Pinion closed the public hearing.

Commissioner Lyle stated he saw no reason to approve the request at this time. He said that he felt that the Commission should either continue the item to the second meeting in May, which would still leave some time prior to the expiration of the use permit request, or turn it down and agendize the use permit for immediate revocation.

PM Rowe indicated that since the use has not commenced, there is no violation of the use permit and that the issues and grievances are building-code related and will be handled in due course with the Building Staff. Commissioner Lyle commented that his intent with the suggestion of the continuance would be to give the applicant some time to rectify the situations and if they are not rectified by that specified time, then he would not grant the extension.

Chairman Pinion stated that he did not like what he had heard, but that he felt that it was a little premature to revoke the use permit that is really dealing with conditions that they have not yet had the opportunity to put into force. He also said that he felt that the issues were about trustworthiness, but he felt that it was conceivable that if the project is given enough time to be built correctly, that it will be done properly and then will operate well, in which case everybody will be happy in the end.

Commissioner Sullivan said that she felt that they should grant an extension, but that it should be a limited extension and not a one-year extension as requested by the applicant. She stated that she had some experience working with the applicant as a contractor and that she was confident that he could pull this project together, but not confident enough to extend it out for 12 months. Commissioner Sullivan continued by stating that she felt that they should allow him the extension in order to be able to finish the job, because the City would be better off if the job is finished rather than call it to a halt at this point.

Commissioner McMahon commented about the issue of being a good neighbor. She stated that she would also like to see the project completed, but completed correctly and with the support of the neighbors, because a vacant building would also not be desired in the final analysis. She said that she supported Commissioner Sullivan's request for a three-month extension and asked Staff to look into arranging some type of a neighborhood meeting where the developer can talk with the neighbors and establish some degree of confidence in the project with the surrounding neighbors.

Chairman Pinion added that he basically agreed with Commissioners Sullivan and McMahon, but that he would not want to limit the extension so much that the applicant would be rushed into doing something inappropriate, such as taking shortcuts and not following the building code. He recommended that the applicant be given an extension until the end of August, which was the amount of time that the applicant said he believed would be sufficient to complete the project.

COMMISSIONER SULLIVAN MOTIONED TO EXTEND THE USE PERMIT FOR THREE MONTHS AFTER ITS CURRENT COMPLETION DATE OF MAY 25, 2000. COMMISSIONER RIDNER STATED THAT HE WOULD BE MORE COMFORTABLE GRANTING A FOUR-MONTH EXTENSION. COMMISSIONER MCMAHON SECONDED THE MOTION BY COMMISSIONER SULLIVAN. THE MOTION PASSED ON A VOTE OF 5-1, WITH LYLE VOTING AGAINST, AND KENNETT ABSENT.

Commissioner Mueller requested that the enforcement issues raised that were not on the agenda be brought back before the Commission in the form of a detailed staff report from the Building Department. He stated that the staff report should explain what the exact problems are, and advised the Commission how the enforcement of those issues is being corrected so that the Commission can take action if necessary.

**1) ZAA-98-01:
E. DUNNE-
MORGAN HILL
DAY CARE
CENTER**

A request to amend the Planned Unit Development for a mini-storage and daycare facility located on the south east corner of the intersection on San Benancio Way and E. Dunne Ave. The proposed amendment is a request to located a shared monument sign for both uses on E. Dunne Ave. PM Rowe presented the Staff report, and pointed out a letter in the Planning Commissioners' agenda packet from Robert Dailey, the developer and operator of San Pedro Self Storage in Morgan Hill, in opposition of the request. The Commission then asked questions of PM.Rowe.

Chairman Pinion opened the public hearing.

There being none, the public hearing was closed.

Commissioner Sullivan stated that the sign itself demonstrates why it is not an appropriate sign because it does not reflect the required addresses, they are located on two different streets, they are not on the same property, they are within the same PUD but they are not the same building that is contiguous, they are not the same shopping center that is in one contiguous area, and they are not similar uses in any way. The entrance is actually from a side street, so she saw no reason for this project to have a monument sign that include

the All Safe Mini Storage.

Commissioner Lyle stated that he was not in favor of the monument sign on E. Dunne Avenue and that he felt that Tutor Time has sufficient signage on the building. He stated that the size of the proposed monument sign violates the current Ordinance, and that he did not like the red neon signature line noted, so if the sign is allowed there, it will require a lot of work to be done on it to become acceptable. Commissioner Ridner agreed with Commissioner Lyle and Sullivan's comments and stated that he did not believe a non-retail use is appropriate on E. Dunne Avenue.

Commissioner Mueller stated that he felt that there are all kinds of problems with the sign as proposed, but that he was not sure that he would have quite as many objections if the sign was done correctly in a high-quality manner.

Chairman Pinon agreed with the comments made and said that if the Commission were going to approve the sign, that he would want to approve it at a smaller size. However, he stated that he believed that signage for the All Safe Mini Storage is not warranted, and that Tutor Time already has plenty of signage.

COMMISSIONERS LYLE/SULLIVAN MOTIONED THAT THE REQUEST BE DENIED. THE MOTION PASSED ON A VOTE OF 6-0, WITH KENNETT ABSENT.

**2) UP-00-01:
RAILROAD-
PERTEET**

Request for approval of a conditional use permit to allow for the construction of 24,000 sq. ft. of industrial buildings on a 3.32 acre parcel located in the General Industrial zoning district. One of the buildings and an outdoor storage area is proposed for use by a roofing company for the storage of equipment and materials.
PM Rowe

presented the Staff report, concluding with Staff's recommendation to the Commission to approve a Negative Declaration for the proposed project and approval of the use permit application subject to the findings and conditions contained in Resolution No. 00-14.

Chairman Pinion opened the public hearing.

Jim Perteet, project applicant, stated that he was in agreement with Staff with regard to the screening of the storage area with a wall running along the back eastern and northern boundary of the storage area. He indicated that the wall is meant to take a right-angle turn at the point where the detention pond is and then head west. Instead of that, he suggested that they run the wall out continuously to where the intersection of the potential future Butterfield will cut through so that they will have that future screening there. Mr. Perteet added that his suggestion would also combat the problem of trying to maintain that same detention pond with the wall in place and having to remove it in the future. PM Rowe indicated that the only concern Staff has with Mr. Perteet's suggestion is that the stopping point of the wall would occupy a little less than half of the existing detention pond area, and eventually that would leave that section of the roadway open to the view across the balance of the detention pond area into the storage area. PM Rowe recommended that the Commission add a condition to the use permit which would stipulate that at such time

that Butterfield Blvd. is extended to and over a portion of the existing detention pond area, that the applicant be required to extend the wall along parallel to that street right-of-way so that the views into the upper storage area is properly screened. Mr. Perteet agreed with the addition of the condition to the use permit request. He then responded to questions from the Commission.

COMMISSIONERS SULLIVAN/MUELLER MOTIONED TO APPROVE THE NEGATIVE DECLARATION. THE MOTION CARRIED ON A VOTE OF 6-0, WITH KENNETT ABSENT.

Commissioner Mueller commented that since it is possible that the applicant may not use this as part of this particular use or if they sell it to someone else, that he felt that the Commission would probably want what Staff had originally requested, and then run the wall diagonally across the property at the right-of-way boundary line as soon as Butterfield Blvd. goes in; or if at that point in time when they decide to get rid of the detention pond and they decide to do something else, then they will have to build the wall back starting at the detention pond.

COMMISSIONERS SULLIVAN/MUELLER MOTIONED TO APPROVE RESOLUTION NO. 00-14 FOR THE USE PERMIT APPLICATION, UP-00-01: RAILROAD-PERTEET, WITH THE FOLLOWING AMENDMENTS: 1) THE TITLE TO BE CORRECTED TO READ: ".....A CONTRACTOR'S YARD ON A ± 1/2 ACRE AREA"; AND 2) AMEND SECTION 3.H TO READ: ".....INSTALLED ALONG THE EASTERN AND NORTHERN BOUNDARY OF THE STORAGE AREA. THE DETAIL OF THE WALL SHALL BE REVIEWED AND APPROVED AS PART OF THE ARCHITECTURAL AND SITE REVIEW APPLICATION. THE WALL IS TO BE EXTENDED ALONG THE FUTURE BUTTERFIELD BLVD. UPON TIME OF STREET EXTENSION OR ALONG THE NORTHERN BOUNDARY OF THE STORAGE AREA IF THE DETENTION AREA IS TO BE USED FOR ANOTHER PURPOSE. THE MOTION CARRIED BY A VOTE OF 6-0, WITH KENNETT ABSENT.

**3) EOT-00-01/
UP-98-05:
then SPRING-MT.
HOPE
CEMETERY**

A request for an extension of time for the commencement of a conditional use permit for the expansion of the Mt. Hope Cemetery. PM Rowe presented the Staff report, and presented Staff's recommendation to approve the applicant's request for the extension of time. He answered questions from the Commission.

Chairman Pinion opened the public hearing.

Andrew Williamson, project representative, requested consideration of the Commission to grant more than a one-year extension, in the interest of saving the additional cost of coming back to do the application process to request another extension. He addressed additional questions from the Commission. He stated that it is their hopes to come out of the bankruptcy within a year, and explained that the situation is not that the Company is not making money, but that they are just not making it quickly enough to pay back the loans that they have in the allotted amount of time. Mr. Williamson further stated that they would probably walk away from the project if the Commission decides not to go forward

with the use permit and that they would put the property up for sale. He added that if the property were to be sold that the expansion would not occur.

Chairman Pinion closed the public hearing.

The Commission entered into discussion. Commissioner Sullivan suggested that the extension be for one year because too much was up in the air about what might change over the next year. Chairman Pinion thought an 18-month extension should be given to the applicant, which would get them past the bankruptcy issue and maybe allow them to be a little more certain about their situation the next time that they return before the Commission for another extension request. Commissioner Mueller thought that a two-year extension should be granted, but requested that a condition be added that they start the process to get the development going within six weeks of exiting the bankruptcy.

PM Rowe stated that if the Commission wanted to amend the use permit conditions, the use permit would have to be brought back before the Commission for that amendment. Commissioner Lyle stated that he was in favor of an 18-month extension.

COMMISSIONER MCMAHON MOTIONED TO EXTEND THE TIME FOR 24 MONTHS, ONLY BECAUSE SHE THOUGHT THAT IT WAS IN EVERYONE'S BEST INTEREST TO GIVE THE APPLICANT THE MOST FLEXIBILITY WHILE THEY ARE IN BANKRUPTCY AND IF THEY WANT IT TO BE A CEMETERY. SHE FURTHER STATED THAT SHE DID NOT SEE ANY ADVANTAGE TO GIVING THE APPLICANT A SHORTER EXTENSION TIME. COMMISSIONER MUELLER SECONDED THE MOTION.

Chairman Pinion stated that he certainly did not want a situation where there is no funding to maintain the cemetery and the City would then have to take it over. Commissioner McMahon added that she felt it would be more saleable to another cemetery director or owner if the project had a longer extension time for expansion.

THE VOTE CARRIED 6-0, WITH KENNETT ABSENT.

**5) RDCS
MICRO
APPLICATIONS**

Applicants for the following proposed residential developments have requested a building allotment under the City's Residential Development Control System pursuant to Chapter 18.78 of the Morgan Hill Municipal Codes.

- a) **MICRO MEASURE P, MMP-00-01: BERKSHIRE-SINGH:** A request for Measure P allocations for Fiscal Year 2000-01. The project consists of 4 single-family detached homes on a 40,522 square foot site at the southerly end of Berkshire Ct.
- b) **MICRO MEASURE P, MMP-00-02: E. DUNNE-GREWAL:** A request for Measure P building allotment for Fiscal Year 2000-01. The project consists of 4 single-family detached dwellings on 1.8 acres located on the north side of East Dunne Ave., immediately east of the realignment of Hill Rd.
- c) **MICRO MEASURE P, MMP-00-03: MCLAUGHLIN-JONES:** A request for

a residential building allotment for 5 single-family attached dwelling units to be located on an 11,630 square foot lot at the northerly end of McLaughlin Ave., north of East Central Ave.

d) **MICRO MEASURE P, MMP-00-04: DEWITT-SHEPPARD:** A request for a residential building allotment for 2 single-family detached and 2 single-family attached dwellings on 1.45 acres located on the west side of DeWitt Ave., south of West Dunne Ave. and Oak Park Dr. One single-family dwelling is existing.

e) **MICRO MEASURE P, MMP-00-05: NINA LANE-SHAW:** A request for a Fiscal Year 2000-01 residential building allotment for three single-family detached dwellings and two single-family attached dwellings on a portion of 1.99 acre parcel on the northerly extension of Juan Hernandez Dr., north of San Vicente Dr.

PM Rowe presented the Staff report, reviewed the scoring adjustments and concluded with Staff's recommendation to the Commission to approve the adjusted scores. He also requested the Commission to provide direction to Staff for the distribution of the building allotments for the Fiscal Year 2000-01 Micro Measure P Competition. PM Rowe added that Staff would bring back a resolution confirming the Commission's decision at the April 25th meeting date. He also advised the Commission that they might possibly consider increasing the pool of allocations by allocating into the second fiscal year, which consist of 7 units. He indicated that if the Commission were to choose to award those 7 units, in addition to the 12 units available for this year, then there would not be a Micro Measure P Competition held next year.

PM Rowe then requested policy clarification and direction from the Commission for the point adjustments under the Open space and Parks and Path categories where it relates to the provisions of the open space areas in the parks. He pointed out that when the changes were made to the scoring criteria for the Micro projects, they wanted to encourage the developers to earn points without having to provide the very small pocket parks where homeowners associations are required to be formed to maintain them. He stated that in the Open Space Category, up to 8 points may be awarded for paying double the in lieu fee instead of purchasing transferrable development credits. Under the Parks and Paths Category for projects that do not provide a park, they can earn up to 6 points under item B7 of the criterion for paying triple the park fees, and therefore can earn up to 10 points maximum by paying the standard park fees and the triple park fee commitment.

PM Rowe then indicated that the Berkshire-Singh & E. Dunne-Grewal applications have open space areas provided, and both are proposing to maintain those areas through homeowners associations. He advised that the E. Dunne-Grewal project is being referred to as a passive open space that will be used for storm water detention and have a turf area, but that they are not proposing any extensive improvements. He also stated that the Berkshire-Singh project has a smaller area that has a path and some picnic tables, and they have requested that points be given for the park land dedication. PM Rowe said that both projects are requesting points, indicating that the open space areas are in excess for what would be required based on the number of units in terms of the formula for park land dedications. However, he added that what that does for those two applications really

means that their ability to earn 8 points under Open Space for double the in lieu fee and 6 points under the Parks and Paths is not applicable because they are providing parks. He advised the Commission that in reviewing the scoring there was some confusion by Staff on these issues. PM Rowe explained that if you were to subtract out the points, it will result in the following adjustments: 1) Berkshire-Singh project - Under the Open Space Category, Staff recommended that the project receive 8 points. However, under Parks and Paths Category B1, it is indicated that "on-site common area proposed to be developed into a park is provided". In this case, the points are only applicable in lieu of park land dedication, and Staff correctly indicated that zero points would be provided for that item. However, since it was indicated as the development of a park, B3 would not be applicable. Therefore, if the 8 points were to be subtracted there, the 8 points there, it would be a reduction in the total points of the Open Space Category from 20 to 12 points. Commissioner Lyle stated that the applicant would still be eligible to get the 4 points for the TDCs under item 3a, so it would just be a reduction of 4 points. PM Rowe agreed with Commissioner Lyle and encouraged discussion of the Commission on these issues.

PM Rowe continued by stating that under the Parks and Paths Category for the Berkshire-Singh project, because the applicant is committing to provide a park under 7b, again there were 6 points recommended by Staff. However, with that 6 points not being applicable, the project would only get 4 points under the Parks and Paths Category. Commissioner Lyle pointed out that he felt that they should get the 3 points under 7a, because under 7b they have indicated that they are willing to pay triple fees, so he would assume that they would be willing to pay double fees instead. He added that the double fees do not have the restriction of 24 units or less, so they would get the 3 points. PM Rowe summarized that the Berkshire-Singh application would either have the reduction of 8 points in the Open Space Category or a reduction of 4 points if the Commission would want to give partial credit for the criterion above; or either a reduction of 6 points or a reduction of 3 points in the Parks and Paths Category.

At this time, Chairman Pinion called for the Commission to discuss and decide whether or not to move the other 7 allocations into this year's competition, which would almost allow all of the applicants the number of allocations they are requesting. Commissioner Lyle said that he would be in favor. Commissioner Mueller commented that he did not have a problem with going with the additional 7 allocations because it seems like an awful lot of expense to go through for just 7 units. He stated that he did have a concern though with one of the projects maybe not even being eligible for any allocations. Commissioner Sullivan stated that she did not know how you could take a project that is requiring four allocations and just give them two, so she was comfortable with going forward with the 7 units, although she would hardly refer to it as a competition at that point. Commissioner Mueller stated that he felt that they needed to clarify the policy, because where it may not be critical for this year's competition, it will be for future competitions. He said that the Commission should provide Staff with direction with reference to the awarding of dual sets of points and that it seems to him that currently the criteria clearly indicates that the points should be awarded in one or the other. Commissioner Ridner stated that he would be opposed to including all 7 allocations in this year's competition. He also said that he was not sure that it would be economically feasible for some of the projects to go forward. Commissioner Lyle pointed out that the total number of available allocations could be 21 out of the 22 needed for this year's competition when you include

the one unit from Fiscal Year 2000-2001 that was not used by an affordable project, that they have yet to assign, in addition to the one unit in the Fiscal Year 1999-2000. Commissioner McMahon expressed concern that if they took all of the allocations and try to accommodate each one of the applications, that they may be approving a project that would not normally score high enough to get an allocation next year, and that in fact there would not be a "competition" if everyone were awarded allocations this year, and the whole scoring process then seems moot. She further stated that she felt that the key is to figure out how to fairly score the projects, rank them and then have the discussion about how the allocations should be awarded.

PM Rowe continued with the review of the scoring adjustments for each of the applications as follows: 1) E. Dunne-Grewal: Open Space Category - Providing the passive open space area would result in a reduced total of 16 points, and under the Parks and Paths Category he noted that Staff did not subtract the points for the triple in lieu park fees, but if the Commission choose to award partial credit for the triple fees that it would increase the maximum to 10 points. PM Rowe noted that the other three projects did not provide parks so there were no adjustments required for those projects under those Open Space and Parks and Paths criteria; 2) McLaughlin-Jones: 1 additional point was awarded under the Schools Category for students going to the Middle School to be able to cross the street at a signalized intersection at Main and Monterey Rd; and under the Orderly & Contiguous Category - 2 point increase for water under item B2; 3) Dewitt-Sheppard: Open Space Category, criterion B2 - A portion of that site is to be adjusted to the property to the south to offset the street dedication, so that area should not be included in the calculations. That correction effects the building coverage percentages and changes the percentage to 25%, reflecting a 1 point reduction in that score; Under the Orderly and Contiguous, PM Rowe indicated that when Staff consulted with the Central Fire Department (CDF), they recommended that 2 points should be awarded to the project for being in the established response time of the El Toro Station and the CDF facility at Watsonville and Monterey Roads. He stated that the recent review of older response maps indicate that the project site is within a five minute response time of El Toro Station, but not within a five minute response of the CDF facility, in which case the project would loose 1 point under the Orderly and Contiguous Category. However, PM Rowe said that at this time he would say that the 17 points will be based on verification of the response time from these fire stations. Commissioner Mueller pointed out that if they are not within response time requirement of either fire station, then the project cannot pass Part 1 of the scoring process and therefore would not be eligible to compete in the competition. PM Rowe answered further questions from the Commission.

Chairman Pinion opened the meeting to public comments.

Mr. T.K. Singh, project applicant, addressed the Commission in support of his project. He stated that some of the scoring adjustments noted by Staff tonight were a surprise to him. He pointed out that last year in his application he might have proposed small parks and he offered to buy all of the credits for open space in accordance with the criteria of the City, but was not given the 20 points requested. He said that this year he reduced the size of his project from 5 to 4 lots just to provide a park to obtain a higher score and he answered all of the questions "yes", as well as offered to make the maximum contribution in every category that he could see. Mr. Singh also stated that under the Public Facilities

Category B1, that last year he received 3 points for his commitment to provide the minimum facilities that would be required under the Subdivision Act, and that this year he indicated the same information, but Staff did not award any points under this criterion. For the record, he stated that he is providing the facilities required per the Subdivision Act and that he is complying in accordance to the standards laid down for the development. Mr. Singh pointed out a correction, noting that the project consist of 4-single family detached homes, not 5 as indicated in the description, that the 5th lot is an easement for the park. He completed his comments by stating that if there had been a change in the policy, it should have been brought to the attention of the applicants beforehand and not at the eleventh hour. PM Rowe responded to the issues raised by Mr. Singh. He reiterated that the scoring criteria for the Micro projects was changed after last year's competition to allow projects to receive maximum points without having to provide parks, because it was felt that the very small parks were not in the public's interest and they burdened homeowners by the need to have very small homeowner associations.

Bill McClintock of MH Engineering, spoke on behalf of Freedom Grewal regarding the Parks & Paths & Open Space categories issues with regard to whether or not you get points for offering triple park fees and not getting any credit for double park fees, and that it is also relevant to the Open Space Category where you offer to buy double TDCs rather than the single TDCs. Mr. McClintock stated that the intent is that the points be maximized, and that in this particular project they really are not parks but landscape buffers. He said that the only reason that they say that it might be a park is that they put some turf there and asked for 1 point for the turfing. He noted that if they had not asked for that 1 point, they would have qualified for all the other points in the double and the triple categories, so he felt it unfair to treat this project as not having a park. Mr. McClintock indicated that in the Parks and Path Category that the sum of all the points for offering the park and the total of points for not offering a park would actually result in the maximum points in either case. Under the Open Space Category he requested that the project be awarded the 20 points mentioned by Staff, and in the Parks & Paths Category that 2 additional points be awarded since they should at least get 3 points out of the 6 for offering triple park fees.

Chris Twardus, 16960 Helene Lane, who is working with the applicant Freedom Grewal, presented supporting comments for the project and requested the Commission's consideration of their request. He also distributed a letter to the Commission from one of the nearby neighbors who is in favor of their project. He stated that many of the neighbors are encouraged and support their residential project plan, as they oppose the idea of having a retail shopping center in the area.

Bill McClintock, project engineer with MH Engineering, spoke on behalf of the Jones project. He stated that he agreed with the adjustments to the point scores made by Staff. He also said that the area is a blighted area and is in real need of the development that the Jones Family is proposing. Mr. McClintock added that the proposed project introduces housing into the downtown area, which he felt is very positive, but also pointed out that the scoring shortfalls of the project are under the Open Space Category and requested the Commission to take that into consideration Mr. McClintock responded to questions from the Commissioners.

Jerry Jones, project applicant, addressed the Commission stating that he felt that their project would be great for the downtown core area. He requested the following score adjustments: 1) 1 point under the Schools Category B2 for scoring purposes, although in reality the students will probably not walk down to Monterey and Main to cross at the signalized intersection; 2) 2 points for upgrading the water and sewer; and 3) Under the Open Space Category, he stated that they are the only R-2 project in the competition and it is hard for them to compete with the single-family homes under R-2 because they are trying to maximize the potential under the R-2 zoning, so they have more building coverage because they are putting two homes per lot, so they cannot compete with the single-family dwellings. He stated that since they are the only R-2 project out of the 5 applications that are competing, that some concession be given to their project because they are trying to maximize the project to its potential. Mr. Jones also stated that he was in agreement with bringing forward the 7 allocations this year and that a competition not be held next year, and that hopefully all the applications will receive some sort of allocation. He said that he was disappointed that 8 allotments went to the Open Market Competition, but that he understood why, but if they had not been taken, then they would have been available for next year's Micro Competition. Mr. Jones indicated that he disagreed with awarding points for parks when the applicant only has landscape buffer areas, including himself. He responded to a question from Commissioner Sullivan by stating that he would move forward with their project even if they did not received the full 5 allocations they are requesting. He added that he would like to see the top scorer receive their full allocation request and that the balance of the applicants receive some portion of their requests based on the points scored.

Marie Jones, project applicant, presented their vision for what they consider a "forgotten neighborhood" and stated that they wanted to cleanup that area. She also stated that she wanted to emphasize that the Open Space Category stood in the way of their project being a top scorer last year and this year, because of their project being the only R-2 project in the competition. Mrs. Jones concluded by saying that she also fully supported including the 7 allocations in this year's competition.

Bill McClintock, project engineer, spoke on behalf of the Sheppard Family project, and requested the following point reconsiderations: 1) Under the Orderly and Contiguous Category B1: He stated that the language in that criterion is ambiguous, as there are two criteria indicated there for the west, and said that he felt that this property should be considered as being located within the central core area and entitled to the 1 point that was withheld; 2) Under the Orderly and Contiguous Category B5: 1 point was requested for the Master Plan design. Mr. McClintock said that a Master Plan was submitted because there was RPD zoning criteria that had established a design for several properties in the project neighborhood. He stated that he went through the effort of developing the plan that met this criteria, and that there was no comment in the staff report indicating why they did not receive the points. His final comments were regarding the fire response issue. He stated that he thinks that the project is within the five minute response time from both the El Toro Station and the CDF Monterey Road Facility. Mr. McClintock responded to questions from the Commission.

David Wright, 16830 Price Drive, spoke in opposition of the project. He commented briefly regarding the drainage and fire response issues relating to the overall plan for that

area. He stated that his only concern with having one parcel go ahead and develop there was who is going to ultimately be responsible for the drainage and fire issues. Chairman Pinion advised Mr. Wright that his issue really is not a point scoring issue, and requested PM Rowe to provide Mr. Wright with that information during the meeting break.

Cynthia Bunch, 16830 Price Drive, spoke in opposition of the project. She said that she had talked to all of the Fire Departments and asked them, when they originally were proposing to expand on the Road, if the extension of Price Drive would create a better route for them to reduce the amount of time, and they all agreed that it would not and that their best route would be going up Dunne Avenue. PM Rowe responded to Ms. Bunch's comments. He noted that this parcel is two parcels removed from the parcel that is adjacent to Price Drive and that it is not being proposed as part of this application to extend Price Drive to DeWitt. Ms. Bunch added that if they develop the entire area like it was originally stated when the area was annexed into the City, then it is suppose to all be done at one time and the entire road would go through. PM Rowe stated that there was some discussion by the Planning Commission about the fact that while the property owners were working cooperatively for the rezoning of the annexation, there was nothing to preclude the properties from being sold and each being developed individually as five-unit projects. He added that it was for that reason that the Planning Commission insisted on an RPD for this area so that in the event that they did submit separate Micro applications, that they would do so in a manner that was consistent with an overall coordinated plan that would address access, circulation, drainage, etc. PM Rowe noted that all of the requirements that apply to the RPD is still applicable even though the project will be built out incrementally instead of all at one time. This is the northerly five parcels that are within that RPD and it is only proposing to bring in the northerly segment of the street to serve those five parcels. Any other parts to the south would have to occur when those properties come in either combined or separately.

Bill McClintock, project engineer, spoke on behalf of the Nina Lane-Shaw project, and asked that the scoring under Orderly and Contiguous be reconsidered, as no credit was given for the Wellington Group development that is currently in process to the south of this project. He stated that the final map is very close to being recorded, and that would make the amount of the project site that is adjacent to existing development 64%. Mr. McClintock also stated that for argument sake, that in the Open Market Competition they are given 2 more months for something to happen on a property adjacent to the development, and since this application was filed February 1st and the final map has been approved within that same two-month period, that the Commission consider that development to the south to be considered as a developed property for 2 additional points. Mr. McClintock also stated that he thought that it was a good idea to include the 7 allotments in this year's competition, because he felt it would be a lot of work and expense to go through in next year's competition, and he thinks that there is justification for this in that these are Micro Competition applications and they happen right away unlike the Open Market Competition where you have a longer period of approval of two years. He also indicated that he thought that it would be important to notify applicants that the City is considering not having the competition if you are doing an Open Market Competition and wiping out a future year's competition. Mr. McClintock stated that he does not feel this would be an issue under the Micro Competition, and that the Micro applications are diminishing every year as the inventory for the parcel sizes required are not there. He

answered questions from the Commission. Commissioner Lyle asked that it be on the record that the remainder parcel cannot be subdivided. Mr. McClintock stated that the owner has no intention of subdividing that parcel.

Dan Shaw, owner of the Nina Lane-Shaw project property, introduced himself to the Commission and stated that it was his understanding that the property had not been approved previously primarily because development had not occurred in close enough proximity to his property. He stressed that he felt that this would be a logical time for his project to go forward, as he has been working closely with the person next door to his property who has now received allotments. Mr. Shaw stated that the time is logical for his project to go forward because they are already paying for streets, working with the developer across from the other side of his property, and now that Juan Hernandez Drive has been completed.

Chairman Pinion closed the public hearing.

During discussion by the Commission, Commissioner Ridner stated that he was philosophically opposed to eliminating the Micro Competition for next year simply to ensure that everyone in this year's competition would receive allotments. He said that he felt like it is a decision that is being made at the last minute, and had the appropriate noticing been done of the competition in such a way that everyone had known that there is likely not to be a competition next year, it likely would have changed the complexion of the projects that were brought forward this year and it may have presented a number of projects that might have scored at least as well, if not better, than the highest scoring projects this year.

Commissioner Lyle stated that he would like to use the 7 units although he would also like to reserve at least one for a one-unit project that might come along next year. Commissioner McMahon agreed with Commissioner Ridner's comments and stated that as much as she would like to make all of the people happy all the time, that they would be basically making all the people happy that are here tonight without proper notice to someone who might have had planned to come in the competition next year. She continued by stating that as much as she would like to stay away from speculation, she was not inclined to give away this year's and next year's competition allocations in one fell swoop and call that a competition. However, Commissioner McMahon indicated that she would be inclined to do one of two things to even the playing field. Either give the applicants the maximum number of points that they have ever gotten when they have been looked at by Staff and score and rank them that way, or go ahead and let Staff revisit the scoring and try to rescore the projects in a way that is an equally level playing field for all of the applicants.

Commissioner Sullivan stated that she was opposed to pulling all 7 of the allocations from next year's competition because she believes that this is longer than a one-year cycle, and that she did not think it was fair to change the rules part of the way through the game. She also commented that she did not think that it is reasonable to say that you have to go through all of this effort and all of this competition and then have the winners and losers get equal allocations. However, Commissioner Sullivan stated that she would approve possibly as few as two units from next year's competition. Commissioner Ridner stated,

and Commissioner McMahon agreed, that if it meant the completion of one project would be the pulling of two units out of next year's competition, that they would be willing to support that as well.

THE GENERAL CONSENSUS OF THE COMMISSION WAS THAT ONLY A MINIMAL NUMBER OF ALLOCATIONS, NOT ALL OF THEM, SHOULD BE USED FROM THE 7 ALLOCATIONS OF NEXT YEAR'S MICRO COMPETITION.

The Commission then discussed the issue of paying for triple in lieu of park fees and not getting credit for double fees, and to clarify whether the areas should be considered parks or open space buffers. Commissioner Lyle commented that if you look at this in the most ridiculous light, you would say because he put in a barbeque pit in the buffer area, he is going to lose 14 points, and that's not right. He stated that if you look at it as a buffer area you would score it differently, but that you also cannot have it both ways, and that in one of the categories the applicant is getting points for both ways. Commissioner Mueller agreed with Commissioner Lyle's comment that the applicants cannot get the points both as having a park and then as not having a park. He feels that if an applicant calls it a park in his application, then it is a park and he is not eligible for certain points. Chairman Pinion commented that he disagreed, adding that he felt that if the applicant could qualify one way for one set of points, or another way for another set of points, then he agreed that they should not get points in both categories, but that they should be able to get the points where they scored the maximum if they have met the qualifications. He further added that saying that you will pay triple in lieu park fees and the qualification is that you would have to pay double fees, should qualify for the points as far as he concerns. Commissioner Sullivan stated that she thinks that the intent is not clear because in this situation there are two different applicants with two different engineering companies helping prepare their paperwork and they both have the same problem. She said that she usually feels that the burden should be placed on the applicant, but in this case she thinks that it is clear that there may be a distinction. She also said that she felt that if they say that they will pay triple fees, then you pretty much can say that they will pay double fees even though they might not have actually stated that. Commissioner Sullivan stated that she thinks that it is the Commission's burden to clarify that issue so that the applicants do not get caught in this trap. because to penalize two out of five applicants for getting caught in this trap does not seem right to her.

PM Rowe stated that what Staff needs to know on the Singh and Grewal applications is whether the open space areas or buffers should be scored as park land dedication as parks, or should they be considered as open space, because then they can get 8 points under Open Space for double open space in lieu fees and 6 points under Parks and Paths for the triple park in lieu fees, and then they would be scored the same way as the remaining three applications were scored in those two same areas. Commissioner Lyle noted that if they were scored that way then they would not get points for providing a barbeque and picnic area. PM Rowe pointed out how the applicants could possibly receive the maximum points in those categories anyway.

Commissioner Ridner stated that he was bothered that one of the applicants could arrive for the meeting and then find out that his project, which was previously scored at the top

of the heap, all of a sudden might now be at the bottom of the heap, just seems to him that there is something wrong with the process. He stated that he was not sure how to resolve the issue, but obviously this is very important to everyone of the applicants and that he wants to make sure that they are absolutely clear that they have scored all of the projects in a congruent way. He further stated that he realize that Staff is doing the best that they can do to come up with the scores, but it seems to him that there is an interpretation issue here that needs further clarification, and he did not know if they could resolve the issue this evening or whether Staff should be requested to relook at the scores.

Chairman Pinion stated that what he preferred to do at this point was to have Staff take this item back and think about it, based on the comments he had heard from the applicants and the comments noted in the applicants' letters, and for PM Rowe to decide how he thinks these points should go. He also stated that he would personally want to go with PM Rowe's recommendation after he has had the opportunity to think it through, and if there are issues that he cannot resolve, then he could bring a list of those back before the Commission for discussion. PM Rowe agreed, stating that he would have Staff of each respective Department review the issues noted and bring the point recommendations back before the Commission for their review at their next meeting date. Commissioner Lyle pointed out that the McLaughlin-Jones and the DeWitt-Sheppard projects both have fire response issues which will require Staff to revisit.

Commissioner Sullivan stated that she still had a concern that they might be setting a precedence by saying that in theory that points should be given when any circuitous route is allowed to get to a signalized intersection crossing to get to the project. Chairman Pinion stated that he felt it if meets the criteria, then they should get he points. Commissioner Ridner agreed with Chairman Pinion. The vote was tied on whether to accept or not accept the applicant's interpretation of criterion B2 under the Schools Category. McMahon, Pinion and Ridner were in favor of the applicant's interpretation. Lyle, Mueller and Sullivan were against the applicant's interpretation. Chairman Pinon asked PM Rowe to discuss this issue with Staff and return the recommendation to the Commission at the next meeting.

Commissioner Lyle indicated that he felt that the Berkshire-Singh project should be entitled to points under Section B1 of the Public Facilities Category. He noted that even though they are not providing the standard sidewalks on Berkshire, and although the applicant is not making improvements to the physical street, that he is providing sidewalks along Hale and Llagas which are not the standard project sidewalks. He said that it might not be as significant as some Micro projects do, but that it seemed to him that it meets the criteria and did not understand why Staff did not award points there. Staff was requested to relook at this item.

COMMISSIONERS LYLE/MUELLER MOTIONED THAT STAFF REVISIT THE AFOREMENTIONED SCORING ISSUES DISCUSSED, AND TO RETURN THIS ITEM AND THE RECOMMENDATIONS FOR THE SCORING ADJUSTMENTS AND THE ALLOCATION DISTRIBUTION BEFORE THE COMMISSION AT THEIR APRIL 25TH MEETING DATE. THE MOTION CARRIED 6-0, WITH KENNETT ABSENT.

OTHER BUSINESS:

**6) MULTI-
FAMILY
HOUSING
VACANCY
RATE REPORT**

PM Rowe noted that based on the sampling that was done, the vacancy rate is currently at an all time low, and pointed out that the additional 72 units of the Terracina Apartments are not reflected in the figures even though they probably are fully occupied by now. He addressed questions from the Commission.

COMMISSIONERS MUELLER/RIDNER MOTIONED TO APPROVE THE MULTI-FAMILY HOUSING VACANCY RATE REPORT BY MINUTE ACTION. THE MOTION CARRIED 6-0, WITH KENNETT ABSENT.

ANNOUNCEMENTS

CITY COUNCIL REPORTS

ADJOURNMENT There being no further business, Chairman Pinion adjourned the meeting at 10:35 p.m.

MINUTES RECORDED AND PREPARED BY:

FRANCES O. SMITH, Administrative Secretary